

CALIFORNIA STATE PERSONNEL BOARD MEETING  
San Francisco Civic Center  
455 Golden Gate  
San Francisco, California 94102

(415) 703-4100 FAX (415) 703-4604

Public Session Location - Room 9

Closed Session Location - Room 7

FULL BOARD MEETING MINUTES\*\*

JANUARY 8, 2002

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President  
William Elkins, Vice President  
Florence Bos, Member  
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The revised state application is now available on the State Personnel Board Website. State Personnel Board staff will send a memo to departments advising them of the need to use the on line applications.

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\*\* The Summary Minutes for the State Personnel Board meeting can be obtained at the following Internet address:  
<http://www.spb.ca.gov/servicesrd.cfm>

- B. State Personnel Board staff will shortly complete the report on the review of the state's discrimination complaint system and schedule a hearing before the State Personnel Board to permit interested parties to provide input to the Board. The hearing will be scheduled for the March 5-6, 2002 meeting.
- C. Copies or recent articles concerning student assistant and CEA appointments were provided to the State Personnel Board members.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on the following:

Litigation

- A. Gabriault v. State Personnel Board - Gabriault has appealed Superior Court decision upholding the State Personnel Board's precedential decision.
- B. Mckinstry v. State Personnel Board /Department Personnel Administration - Oral argument scheduled for January 17, 2002, in this appeal by a peace officer dismissed for threatening his girlfriend and lying about it.
- C. Roe v. State Personnel Board - Trial court decision issued awarding additional back pay.
- D. Connerly v. State Personnel Board - Memorandum of costs filed by Connerly. Real parties in interest are filing a memorandum to tax costs.
- E. Safieslamy v. Department of Toxic Substances Control/State Personnel Board - Trial scheduled for January 8, 2002.
- F. Davenport v. State Personnel Board - Workers Compensation trial scheduled for January 8, 2002.

Other

- A. State Employee Mediation Program - Five day volunteer mediator training is being conducted this week.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. California Correctional Peace Officers Association and the California Highway Patrol Memoranda of Understanding (MOU) legislation, SB 65 (Burton) is moving through the legislative process.
- B. California State Employees Association Memoranda of Understanding (MOU) language is not available at this time. The language will be in SB 728 (Ortiz) and will have its first hearing January 16, 2002. The State Personnel Board is opposed to the "Post and Promote" provision in the language and will actively oppose that portion of the bill.
- C. The State Personnel Board's four legislative proposals are being considered for introduction by various legislators, at this time we do not have any commitments. The last day for submission to the Legislative Counsel is January 25, 2002.

5. PERS UPDATE - Sean Harrigan

State Personnel Board Member and State Personnel Board's CalPERS Representative Sean Harrigan provided the Board with a written report and advised them of the following:

- A. The CalPERS Ad Hoc Committee on Internal Corporate Governance Principles has completed its report (a copy was provided to the State Personnel Board members.)
- B. CalPERS Chief Investment Officer has resigned and has been replaced by Mark Anson.

- C. The CalPERS Board will spend a considerable amount of time at its offsite this month discussing various initiatives concerning health care and is expected to develop a long and short term policy framework that will help determine how the CalPers Board will move forward and the issues it will focus on.
- D. CalPERS has also joined the National Coalition of Health Care to assist CalPERS in dealing with national health care legislation.

6. ORAL ARGUMENT

Oral argument in the matter of Alan Doran, Case No. 00-3839. Appeal from five percent reduction in salary for six months. Department of Corrections.

Persons Participating:

Paul Kopf, Staff Counsel, representing Department of Corrections

Pam Manwiller, Regional Administrator, Union of American Physicians and Dentists (UAPD), representing appellant

ACTION: Submitted

7. ORAL ARGUMENT

Oral argument in the matter of Svetozar Stukovsky, Case No. 99-3583. Appeal from dismissal. Department of Corrections.

Persons Participating:

Steve Jennings, Staff Counsel, Legal Affairs Division, representing Department of Corrections

Richard Papst, Attorney at Law, representing appellant

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of Antonio Lopez, Case No. 00-1841P. Appeal from dismissal. Teale Data Center.

Persons Participating:

Christopher J. Gill, Staff Counsel III, representing  
Stephen P. Teale Data Center  
Mark DeBoer, Attorney at Law, California State Employees  
Association, representing appellant

ACTION: On January 8, 2002, adopted Board decision  
modifying the dismissal to a 30 working day suspension.  
VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

9. HEARING - Proposed resolution to abolish the Deputy  
Commissioner, Board of Prison Terms eligible list created  
by the Board of Prison Terms.

Persons Participating:

Martha Esmael, Staff, California State Personnel Board  
John Monday, representing California Attorneys,  
Administrative Law Judges & Hearing Officers (CASE) and  
Association of California Parole Deputy Commissioners  
(ACPDC)  
Rose Kogerman, Attorney, Board of Prison Terms (BPT)  
Jay Yerman, United States Probation

ACTION: Adopted amended resolution on January 8, 2002.  
See page 26.  
VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

10. HEARING - Proposed resolution to amend the California  
Code of Regulations Section 433, Voluntary Transfers  
Between Classes and adopt new California Code of  
Regulations Section 433.1, Voluntary Transfers Between  
Classes - Bargaining Unit (BU) 10 Employees. The new  
Section prohibits transfers of employees into rank and  
file classifications assigned to BU 10 unless employees  
meet the minimum educational requirements identified in  
the respective class specification. The new Section also  
identifies classes in BU 10 which are excluded from the  
transfer restriction.

Persons Participating:

Martha Esmael, Staff, California State Personnel Board

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Pete McClory, Senior Labor Relations Representative,  
California State Employees Association in State  
Employment(CSEA)

Kristen Haynie, Labor Relations Consultant, California  
Association of Professional Scientists (CAPS)

ACTION: Submitted

#### BOARD ACTIONS

11. STATE PERSONNEL BOARD SUMMARY MINUTES OF DECEMBER 18,  
2001

ACTION: Adopted on January 8, 2002.

VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

12. ACTION ON SUBMITTED ITEMS

ACTION: See pages 19-20.

13. ADMINISTRATIVE LAW JUDGE CASES

On January 8, 2002, the Board adopted the following  
decisions presented by Elise Rose, Chief Counsel,  
California State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

At the December 18, 2001, Board meeting, a majority of  
the Board (Elkins, Bos and Carpenter) voted to adopt the  
Administrative Law Judge's proposed decision regarding  
Cato Hall, Case No. 00-1147P and Board Member Harrigan  
dissented by written notice. At the January 8, 2002,  
Board meeting, Member Harrigan voted to confirm his  
dissent, effective as of December 18, 2001.

#### PROPOSED DECISIONS

TUYET CASTILLO, CASE NO. 00-2811B  
Appeal for determination of back salary,  
benefits and interest after revocation  
of ten working days suspension  
Information Technology Consultant  
Los Angeles - California State University  
California State University

ACTION: Back salary granted and interest on the ten working days denied

KIRK D. CESSNA, CASE NO. 01-1922

Appeal from termination of  
Career Executive Assignment  
Division Chief  
Department of Transportation

ACTION: Termination of Career Executive Assignment sustained

VALERIE GREATHOUSE, CASE NO. 01-2457

Appeal from 20 working days suspension  
Criminal Intelligence Specialist I  
Department of Justice

ACTION: 20 working days suspension revoked

JANET HARNDEN, CASE NO. 01-0006E

Appeal from discrimination  
Office Services Supervisor I (General)  
Susanville - State Prison  
Department of Corrections

ACTION: Discrimination complaint granted

STEVEN JENNINGS, CASE NO. 01-2454

Appeal from 60 workdays suspension  
Correctional Officer  
Wasco - State Prison  
Department of Corrections

ACTION: 60 workdays suspension revoked

JOSEPH LANGUERAND, CASE NO. 00-3946

Appeal from five percent reduction in salary for six months

Correctional Officer  
Deuel Vocational Institution

ACTION: Five percent reduction in salary for six months revoked

CHRISTOPHER JOHN LARRY, CASE NO. 01-1806

Appeal from dismissal  
Psychiatric Technician (Forensic Facility)  
Patton - State Hospital  
Department of Mental Health

ACTION: Dismissal sustained

SHARON MAGNISON, CASE NO. 00-3934E

ACTION: Dismissal sustained

Appeal of discrimination and retaliation  
Office Technician

Metropolitan State Hospital

Department of Mental Health

ACTION: Discrimination and retaliation dismissed

DUSTIN MEADOWS, CASE NO. 01-2087

Appeal from 20 work days suspension

Correctional Officer

Wasco - State Prison

Department of Corrections

ACTION: 20 work days suspension sustained

AARON LAYER, CASE NO. 01-2455

Appeal from five work days suspension

Correctional Officer

Wasco - State Prison

Department of Corrections

ACTION: 5 work days suspension sustained

SHARRIEFA M. MUHAMMAD, CASE NO. 01-0994

Appeal from dismissal

Motor Vehicle Field Representative (Range B)

Department of Motor Vehicles

ACTION: Dismissal sustained

RUSSELL RAY, CASE NO. 01-2250

Appeal from 60 calendar days suspension

Stationary Engineer

Avenal - State Prison

Department of Corrections

ACTION: 60 calendar days suspension modified to 20  
calendar days suspension

RYAN A. RICHINS, CASE NO. 00-3984

Appeal from dismissal

State Traffic Officer

Department of California Highway Patrol

ACTION: Dismissal sustained

GAIL RUSAS, CASE NO. 01-1475

Appeal from ten working days suspension



Communications Operator  
Department of California Highway patrol  
ACTION: Ten working days suspension sustained

PAUL SULIER, CASE NO. 01-2626  
Appeal from demotion from the position  
of Correctional Sergeant to the  
position of Correctional Officer  
Corcoran - California Substance Abuse  
Treatment Facility  
Department of Corrections  
ACTION: Administrative Law Judge's proposed decision  
rejected by Board. Board to decide case itself.

PHILLIP WEISSBURG, CASE NO. 01-2630  
Appeal from rejection during probationary period  
Academic Teacher, General Education  
Soledad - State Prison  
Department of Corrections  
ACTION: Rejection during probationary period affirmed  
and appeal denied

RICHARD WHEAT, CASE NO. 01-1619  
Appeal from rejection during probationary period  
Native American Spiritual Leader  
(Permanent Intermittent)  
San Luis Obispo - California Men's Colony  
Department of Corrections  
ACTION: Rejection during probationary period affirmed  
and appeal denied

WILLIAM WHITALL, CASE NO. 01-1533  
Appeal from limited term termination  
Warehouse Worker  
Department of California Highway Patrol  
ACTION: Limited term termination sustained

CHARLES W. YOUNG, CASE NO. 00-1044  
Appeal from rejection during  
probationary period  
Facility Captain  
Calipatria - State Prison  
Department of Corrections  
ACTION: Rejection during probationary period revoked

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AUWANA BROWN, CASE NO. 00-3446  
Appeal to set aside resignation  
Police Officer  
Fresno - California State University  
California State University  
ACTION: Appeal dismissed for lack of jurisdiction

RALPH REY, CASE NO. 01-1995  
Appeal from dismissal  
Janitor  
Patton - State Hospital  
Department of Mental health  
ACTION: Dismissal sustained

TIMOTHY R. McCARTHY, CASE NO. 99-0468B  
Appeal for determination of back salary,  
benefits, and interest after reinstatement  
Youth Correctional Officer  
Department of the Youth Authority  
ACTION: Back salary, benefits and interest awarded

RAMON PRIETO, CASE NO. 01-3204  
Appeal from official reprimand  
Correctional Sergeant  
Centinela - State Prison  
Department of Corrections  
ACTION: Official reprimand modified to an official  
reprimand in personnel file for six months

FRANK GARCIA, CASE NO. 01-2596  
Appeal from ten percent reduction  
in salary for 12 months  
Chief Engineer I  
Avenal - State Prison  
Department of Corrections  
ACTION: Ten Percent reduction in salary for 12 months  
modified to ten percent reduction in salary for 6 months  
and ordering backpay, benefits and interest

JON HENDERSON, CASE NO. 01-2657  
Appeal from dismissal  
Psychiatric Technician  
Eldridge - Developmental Center  
Department of Developmental Services  
ACTION: Dismissal modified to an official reprimand

PETITIONS FOR REHEARING

ROSEMARY BLEDSOE, CASE NO. 01-1794P  
Appeal from retaliation  
Teacher  
Woodland Joint Unified School District  
ACTION: Petition for rehearing filed by appellant denied

STEPHEN L. O'BARR, CASE NO. 00-0154P  
Appeal from whistleblower retaliation  
Physician and Surgeon  
California Correctional Center  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

DANIEL RUIZ, CASE NO. 01-1118  
Appeal from dismissal  
Psychiatric Technician  
Pomona - Developmental Services  
Department of Developmental Services  
ACTION: Petition for rehearing filed by appellant  
granted

ABDUL K. SHABAZZ, CASE NO. 00-3840  
Appeal from ten percent reduction  
in salary for 12 months  
Correctional Officer  
Lancaster - State Prison  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

14. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 21-24.

15. WITHHOLD APPEALS

On January 8, 2002, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

JAY ABRAMS, CASE NO. 01-1328  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

JOSE ALVARADO, CASE NO. 01-1320  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

STARR AMOS, CASE NO. 01-1322  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

REX ANDERSON, CASE NO. 01-0921  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

DANIEL ARNOLD, CASE NO. 01-0502  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

TED BANADYGA, CASE NO. 01-0367  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

SHAN BROOKS, CASE NO. 01-1477  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

CASEY CANNON, CASE NO. 01-0704  
Classification: Correctional Officer  
Department of Corrections

ACTION: DENIED

LUCY CHALABIAN, CASE NO. 01-1323  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

TERRY DEWITT, CASE NO. 01-1293  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

JOSHUA DOWNS, CASE NO. 01-1412  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

MARK FLETCHER, CASE NO. 01-1431  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

COLETTE GLASGOW, CASE NO. 01-1428  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

CARLOS HERRERA, CASE NO. 01-0428  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

JASWINDER HOTH, CASE NO. 01-0915  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

ARCHER LEVY, CASE NO. 01-1314  
Classification: Correctional Officer  
Department of Corrections  
ACTION: WITHDRAWN

JOSE ZALDY OBAR, CASE NO. 01-0302  
Classification: Correctional Officer  
Department of Corrections  
ACTION: WITHDRAWN

MARY OLVERA, CASE NO. 01-1280  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

WAYNE PAYTON, CASE NO. 01-0825  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

ELIZARIO PEREZ, CASE NO. 01-1318  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

OLGA SCHOBINGER, CASE NO. 01-1317  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

RENEE TORTORICI, CASE NO. 01-1307  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

HUGO WINSTEAD, CASE NO. 01-0634  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

WILLIAM WOODS, CASE NO. 00-4220  
Classification: Medical Technical Assistant, CF  
Department of Corrections  
ACTION: GRANTED

16. MEDICAL APPEALS

On January 8, 2002, the Board adopted the following  
decisions presented by Walter Vaughn, Executive Officer,  
California State Personnel Board  
VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

BRETT LITOFF, CASE NO. 01-1471  
Classification: Cadet, CHP  
State Personnel Board  
ACTION: DENIED

CARL VINCE, CASE NO. 01-0907  
Classification: Peace Officer I  
Department of Developmental Services  
ACTION: DENIED

AUTUMN PATTON, CASE NO. 01-2289  
Classification: Psychiatric Technician Trainee  
Department of Mental Health  
ACTION: DISMISSED

DONALD THOMPSON, CASE NO. 01-3271  
Classification: Youth Correctional Officer  
Department of the Youth Authority  
ACTION: DISMISSED

17. PETITIONS FOR REHEARING CASE

On January 8, 2002, the Board adopted the following  
decision presented by Walter Vaughn, Executive Officer,  
California State Personnel Board  
VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

(Petition for Rehearing)  
RAUL MARTINEZ, CASE NO. 01-0239p  
Classification: Parole Agent I, Adult Parole  
Department of Corrections  
ACTION: DENIED

18. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

- A. RESEARCH SPECIALIST (VARIOUS STUDIES)  
The California Earthquake Authority requests to  
utilize the classification of Research Specialist  
(Various Studies) for it's Disaster Response Program  
to conduct research involving earthquake loss  
development, repair and retrofit.

ACTION: Noted

19. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY  
UNDER CONSIDERATION

(1) DIVISION CHIEF, PLANNING,  
DISTRICT 11

The Department of Transportation proposes to allocate the above position to the CEA category.

The incumbent is the chief advisor to the District Director, with responsibility for management of the District's System Planning, Public Transportation/Intergovernmental Review (IGR)-California Environmental Quality Act (CEQA) Branch, Geographic Information Systems (GIS)/Travel Forecasting Branch, Regional Planning Studies/Goods Movement, Native American Liaison, Metropolitan Transit Development Board (MTDB) Liaison and International Border Studies Programs. The department indicates that the position is at the third organizational level and will report to the District Director.

(2) CHIEF, OFFICE OF TECHNOLOGY RESOURCES

The Department of General Services proposes to allocate the above position to the CEA category.

The Chief of Office of Technology Resources position, manages information technology projects and services within the Department of General Services. The department indicates that the position is at the third organizational level and will report to the Deputy Director, Management Services Division.

(3) DEPUTY SECRETARY-MANAGER

The Department of Food and Agriculture proposes to allocate the above position to the CEA category. This position serves as the chief advisor to the Chief Executive Officer and participates in all policy development, master



planning, decision-making and evaluation. The position has a major role in development and implementation of policies related to the use of the 160-acre even facility, which has over 4 million visitors per year. Has major role in planning the 17 day annual summer fair which attracts over 800,000 visitors and maintain a \$7.5 million dollar budget. The department indicates that the position is at the second organizational level and will report to the District Chief Executive Officer.

- (4) ASSISTANT DEPUTY DIRECTOR, OFFICE OF ENFORCEMENT  
The Department of Managed Health Care proposes to allocate the above position to the CEA category. The Assistant Deputy Director will serve as Chief, Office of Enforcement, with responsibility for directing the statewide activities of the Office of Enforcement for the Department of Managed Health Care. The Assistant Deputy Director, Office of Enforcement, is charged with managing and directing the Department's litigation needs in enforcing laws that regulate the managed health care industry. The department indicates that the position is at the second organizational level and will report to the Director and Chief Deputy Director, Department of Managed Health Care.
- (5) CHIEF, eGOVERNMENT SOLUTIONS/SPECIAL PROGRAMS DIVISION  
The Secretary of State proposes to allocate the above position to the CEA category. This position directs the development and implementations of all eGovernment solutions for Secretary of State's divisions' primary missions. Serves as Division Chief to coordinate and oversee all phases of on-going eGovernment projects to implement new automation systems for electronic filing and Internet placement of program work. The department indicates that the position is at the second organizational level and will report to the Chief Deputy Secretary of State, and the Assistant Secretary of State.

(6) DEPUTY DIRECTOR, COMMUNICATIONS AND  
ADMINISTRATION

The State Water Resources Control Board proposes to allocate the above position to the CEA category. The Deputy Director, Communications and Administration is responsible for all administrative, information technology, and media relations functions. In this role, the incumbent provides broad direction to the Chief, Division of Administration, the Chief, Office of Information Technology, and the Board's Public Affairs Advisor. The incumbent provides broad policy guidance in the development of new initiatives and policies for consideration by the Executive Management Team. The department indicates that the position is at the first organizational level and will report to the Executive Director.

(7) DEPUTY DIRECTOR, WATER QUALITY AND POLICY  
DEVELOPMENT

The State Water Resources Control Board proposes to allocate the above position to the CEA category. The Deputy Director, Water Quality and Policy Development, has lead responsibility for all surface water quality programs, for the discharge to land program, and for development of policy and new initiatives for the consideration by the Executive Management Team.

In this role, the incumbent supervises and provides general direction to the Chief, Division of Water Quality and Chief, Office of Policy and Initiative Development. The department indicates that the position is at the first organizational level and will report to the Executive Director.

(8) CHIEF DEPUTY DIRECTOR

The State Water Resources Control Board (SWRCB) proposes to allocate the above position to the CEA category. The Chief Deputy Director serves as the principal policy advisor to the Executive Director in matters regarding the Board's Clean Water and Water Rights programs, and acts on behalf of the Executive Director during his/her absence. Additionally, the Chief Deputy

Director is the principal point of contact for issues transmitted from the Office of the Secretary, California Environmental Protection Agency. The Chief Deputy Director is a member of the SWRCB's Executive Management Team and is involved in hearing policy recommendations for all SWRCB and Regional Board programs and making policy decisions on the same. The Chief Deputy Director is charged with providing direct guidance and policy direction to the Division of Clean Water Programs and the Division of Water Rights. The department indicates that the position is at the first organizational level and will report to the Executive Director

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW CEA POSITIONS

- (1) CHIEF, SMALL BUSINESS AND DISABLED VETERANS'  
BUSINESS ENTERPRISE SERVICES BRANCH  
CHIEF, BUSINESS SYSTEMS AND SUPPORT BRANCH,  
PROCUREMENT DIVISION  
ASSISTANT DEPUTY DIRECTOR, PROCUREMENT DIVISION  
CHIEF, OPERATIONS BRANCH  
EMERGENCY PREPAREDNESS MANAGER  
The Department of General Services' request to  
allocate the above positions to the CEA category  
has been disapproved, December 19, 2001.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. GERARDO Z. HERNANDEZ, CASE NO. 01-0220. Appeal from 15 working days suspension. Department of California Highway Patrol. (Oral argument held October 2, 2001).

ACTION: On January 8, 2002, adopted Board decision revoking the 15 working days suspension, and award back salary, benefits and interest.

VOTE: Elkins, Bos, Harrigan - Aye. Alvarado - Dissented.

2. STELLA OYEKA, CASE NO. 00-1045. Appeal from rejection during probation. Franchise Tax Board. (Written testimony presented November 6, 2001).

NO ACTION

3. MARK CHAMBERLAIN, CASE NO. 01-0740B. Appeal from backpay. Department of Mental Health. (Oral argument held November 6, 2001).

NO ACTION

4. SUSAN BERGER-TULLY, CASE NO. 01-0489P. Appeal from rejection during probation. (Oral argument held November 6, 2001).

NO ACTION

5. CALIFORNIA ASSOCIATION OF PROFESSIONAL SCIENTISTS (CAPS) CAPS requests that individuals meet the minimum education requirements prior to transferring into Bargaining Unit 10 classifications. (Hearing held November 6, 2001).

NO ACTION

6. JUDITH BECK, CASE NO. 00-3025. Appeal from constructive medical termination. Department of California Highway Patrol. (Oral argument held November 7, 2001).

NO ACTION

7. KATHLYN STEVENS, CASE NO. 01-1813. Appeal from dismissal.  
Department of Developmental Services. (Administrative Law Judge's proposed decision presented to Board December 18, 2001).

ACTION: On January 8, 2002, the Board rejected the proposed decision and remanded the matter to the Administrative Law Judge to submit a new proposed decision.

VOTE: Alvarado, Elkins, Bos, Harrigan - Aye.

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.



\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on January 8, 2002.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Alvarado, Elkins, Bos - Aye.

CORRECTIONS

1. Please note the following corrections to the Summary Minutes of December 4, 2001:

MICHAEL PEREZ, CASE NO. 01-0708  
Classification: Correctional Officer  
Department of Corrections

ORLANDO PIMENTEL, CASE NO. 01-3356  
Classification: Correctional Officer  
Department of Corrections

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RECOMMENDATION

That the following Resolution be adopted:

**WHEREAS**, Article VII, Section 1(b), Constitution of the State of California states, "In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination"; and

**WHEREAS**, Government Code §18930 provides that, "Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors actually to perform the duties of the class of position for which they seek appointment..."; and

**WHEREAS**, California Code of Regulations §198 states, "Ratings of education, experience and personal qualifications shall be made on a competitive basis in that each competitor shall be rated thereon in relation to the minimum qualifications for the class in question and in relation to the comparable qualifications of other competitors...When rating competitor's education and experience, interviewers shall consider the quality, length, and pertinence of such education and experience, and the degree to which competitor's total education and work histories represent suitable preparation for the work of the class."; and

**WHEREAS**, SPB has determined the Deputy Commissioner, BPT eligible list was not established in compliance with the Constitution of the State of California, Government Code §18930, California Code of Regulations §198, in that this examination was not administered on a competitive or lawful basis; and

**WHEREAS**, nine applications were identified in which the applicants did not appear to meet the minimum qualifications of the class; and

**WHEREAS**, no appointments have been made from the Deputy Commissioner, BPT eligible list, dated May 18, 2001;

**THEREFORE, BE IT RESOLVED**, that the current Deputy Commissioner, BPT eligible list shall be abolished effective January 8, 2002; and be it further

**RESOLVED**, that the Board of Prison Terms shall be required to administer, with assistance from SPB staff, a new Deputy Commissioner, BPT examination, in accordance with the aforementioned laws and regulations; and be it further

**RESOLVED**, that BPT shall re-evaluate all applications filed for the Deputy Commissioner, BPT examination to ensure minimum qualifications are met; and be it further

**RESOLVED**, that BPT shall be required to obtain SPB approval of all current and future examinations until such time as BPT submits and SPB approves a plan to ensure the integrity of its examinations and compliance with the Constitution of the State of California, applicable State laws, regulations and merit principles.